

## **JOURNAL OF THE HOUSE.**

Tuesday, July 22, 2008.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we begin today's formal legislative session with a moment of personal reflection and prayer. We seek Your guidance and direction as we try to understand and evaluate correctly the items on today's calendar. As elected representatives, inspire us to select the right legislative decisions and choices which meet both the current and future needs of people and the Commonwealth. Help us to remain faithful to our high personal, philosophical and religious ideals, goals and principles. In this era of worldwide unrest, change and armed conflicts, teach us to keep in mind the spirit, dedication and the wisdom of the founders of this nation as we deal with today's difficult challenges. May we continue to strengthen our basic and traditional institutions in these times of change.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

### **Resolutions.**

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Costello of Newburyport) recognizing the city of Newburyport as the birthplace of the United States Coast Guard; and

Resolutions (filed by Mr. Nyman of Hanover) congratulating Mr. and Mrs. Michael Shalgian on the occasion of their seventieth wedding anniversary;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Puppolo of Springfield, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### **Petitions.**

Petitions severally were presented and referred as follows:

By Mrs. Harkins of Needham, joint petition (accompanied by bill, House, No. 5000) of Lida E. Harkins and Scott P. Brown (by vote of the town) that the town of Needham be authorized to establish an off-street parking fund for certain business districts in the central area of said town. To the committee on Municipalities and Regional Government.

**UNCORRECTED PROOF**

By Miss Garry of Dracut, joint petition (accompanied by bill, House, No. 4999) of Colleen M. Garry and Susan C. Tucker (by vote of the town) for legislation to validate betterment assessments in the town of Dracut. To the committee on Revenue.

Severally sent to the Senate for concurrence.

Mr. Lepper of Attleboro presented a petition (subject to Joint Rule 12) of John A. Lepper that inaccurate quotes relative to the cost of premiums shall constitute unfair or deceptive acts in the insurance business; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

The House Bill establishing and funding the Massachusetts Broadband Institute (House, No. 4864, amended) came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2796; and striking out the emergency preamble and inserting in place thereof the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish and fund the Massachusetts Broadband Institute, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

Under suspension of Rule 35, on motion of Mr. Flynn of Bridgewater, the amendments were considered forthwith.

The committee on Bills in the Third Reading reported recommending that the House concur with the Senate in its amendments with further amendments in section 6 by striking out paragraphs (l) and (m) and inserting in place thereof the following two paragraphs:

"(l) Actions of the board may take effect immediately and notice thereof shall be published and posted. Meetings of the board shall be subject to section 10 of chapter 66, subject to subsection (h) of section 12. The operations of the institute shall be subject to chapters 268A and 268B, provided that the members of the board shall be considered directors for the purposes of the fourth, fifth, and seventh paragraphs of section 3.

(m) The provisions of sections 38A1/2 to 38O, inclusive, of chapter 7, sections 44A to 44J, inclusive, of chapter 149, section 39M of chapter 30, subject to the provisions of subsection (c) of section 4A, shall apply to the operations of the institute."; and by striking out section 7 and inserting in place thereof the following section:

"SECTION 7. Notwithstanding any general or special law to the contrary, to meet the expenditures necessary to carry out section 2, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, \$40,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face. Massachusetts Broadband Incentive Fund Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court pursuant to section 3 of Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later than June 30, 2043. No authorization shall be expended unless expressly authorized by the secretary of administration and finance. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds issued under the authority of this section shall be general obligations of the commonwealth."; and the report was accepted.

## **UNCORRECTED PROOF**

The further amendments were adopted. The House then concurred with the Senate in its amendments, as amended. Sent to the Senate for concurrence in the further amendments.

The House Bill authorizing the town of Amesbury to grant 2 additional alcoholic beverage licenses (House, No. 4426) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out section 1 and inserting in place thereof the following section:

"SECTION 1. Notwithstanding sections 12 and 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the city known as the town of Amesbury may grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises. One of the licenses shall be granted to Logan's Dad, Inc., d/b/a Roobar, located at 36 Main street, and one shall be granted to a commercially-zoned establishment. Once issued, the licensing authority shall not approve the transfer of the licenses to any other locations."

Under suspension of Rule 35, on motion of Mr. Costello of Newburyport, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill increasing the number of licenses for the sale of wines and malt beverages in the city of Medford (House, No. 4697) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2683.

Under suspension of Rule 35, on motion of Mr. Sciortino of Medford, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill furthering the biofuels clean energy sector (House, No. 4951) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2814.

Under suspension of Rule 35, on motion of Mr. Dempsey of Haverhill, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

### **Bills**

Relative to dementia special care units in long-term care facilities (Senate, No. 425, amended in section 1, in line 11, by inserting after the word "facilities" the words "shall meet the criteria set forth under this section in order to provide such services" and in lines 18 and 19, by striking out the sentence contained therein) (on House, No. 616);

Further regulating fees for justices of the peace (Senate, No. 801) (on a petition);

Establishing a sick leave bank for Gloria Phillips, an employee of the Department of Public Health (Senate, No. 2787, changed by inserting at the end thereof the following sentence: "Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the adoption of this act as determined by the department of public health.") (on a petition);

Further regulating publicly-assisted affordable housing for certain low-income residents (Senate, No. 2799, amended in section 1, in lines 98 to 106, inclusive, as changed by the Senate committee on Bills in the Reading, by striking out the following: "and (xvii) other financing programs as identified by the department; provided, however, that housing that receives relief from local zoning in exchange for providing a percentage of units as affordable to low or moderate-income residents and that does not receive a financial subsidy shall not be considered publicly-assisted housing.", in lines 114 and 115, by striking out the words "and which shall not be applied to limit an owner from receiving any rents otherwise allowable under federal law" and inserting in

place thereof the following: "; provided, however, that in any project that is eligible for participation in the United States Department of Housing and Urban Development's Mark Up to Market Program, the restriction, insofar as it relates to the limiting of the level of rents, shall not apply to units covered by a section 8 housing assistance payment contract so long as such contract is effective" and in line 171 by inserting after the word "subsection." the following sentence: "Thereafter, the owner shall again be subject to the notice provisions of subsection (c) of section 2.") (on Senate bill No. 782);

To improve, promote and protect the oral health of the Commonwealth (Senate, No. 2819) (on Senate bill No. 2478);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

#### Bills

Amending the charter for the town of Sandwich (Senate, No. 2680) (on a petition) [Local Approval Received];

Authorizing the town of Kingston to install, finance and operate wind energy facilities (Senate, No. 2691) (on a petition) [Local Approval Received];

Ensuring consumer protection in life insurance contracts (Senate, No. 2818) (on Senate bill No. 2640);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

#### Reports of Committees.

A report of the committee on Economic Development and Emerging Technologies, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 4844) of Salvatore F. DiMasi and others for legislation to promote job creation and clean energy technology, was considered forthwith, under suspension of the rules, on motion of Mr. DiMasi of Boston.

Pending the question on acceptance of the report, the petition was recommitted to said committee, on motion of Mr. Bosley of North Adams.

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill relative to public safety and fair practices in procurement relating to the Commonwealth of Massachusetts selection of architects, engineers and related professionals (House, No. 3182, changed by striking out the following: "SECTION 1." and inserting in place thereof the following: "SECTION 1A."; and by inserting after the enacting the clause the following section:

"SECTION 1. Nothing contained in the foregoing as amended shall be construed as constituting regulation and/or oversight of any designated firms or identified professional services. The amended sections shall apply to the procurement of services and the allocation of said services by agencies of the Commonwealth identified herein."). Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to equitable coverage for annuity policies (Senate, No. 2729) ought to pass with an amendment by striking out all after the enacting clause and inserting in place thereof the text contained in a duplicate of House, No. 901, changed [also based on House bill No. 901, changed].

**UNCORRECTED PROOF**

Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for a second reading, with the amendment pending.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

The Senate Bill concerning marriage laws (Senate, No. 800); and  
House bills

Authorizing the appointment of Michael P. Hickey as a police officer in the town of Hingham (House, No. 4837) [Local Approval Received];

Designating a certain bridge in the city of Worcester as the State Trooper Paul F. Barry Bridge Memorial Bridge (House, No. 4869); and

Establishing a sick leave bank for Timothy M. Larkin, an employee of the Information Technology Division (House, No. 4955);

Severally placed in the Orders of the Day for the next sitting for a second reading.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill to require producer responsibility for collection and recycling of discarded electronic products (House, No. 4570) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4991).

Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

Engrossed Bills.

Engrossed bills

Authorizing the city known as the town of Amesbury to grant 2 additional licenses for the sale of all alcoholic beverage licenses to be drunk on the premises (see House, No. 4426, amended); and

Providing for the elections of school committee members in the Southern Berkshire Regional School District (see House, No. 4865, amended);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The Senate Bill establishing a sick leave for Karen Fowles, an employee of the Massachusetts Rehabilitation Commission (Senate, No. 2730, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

House bills

Relative to the delivery of loss information to an insured from commercial insurers (House, No. 1087);

Relative to compensated absences in cities and towns (House, No. 1949);

**UNCORRECTED PROOF**

Relative to the expenditure of certain municipal and district monies (House, No. 1950);

Increasing the amount that can be appropriated from the balance of a capital project fund (House, No. 1951) (its title having been changed by the committee on Bills in the Third Reading);

Relative to police auctions (House, No. 1981, changed) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to interest rates to be charged upon apportionment betterment assessments in the town of Wareham (House, No. 3986);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The Senate Bill authorizing the city of Quincy to convey certain land (Senate, No. 2724) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Mariano of Quincy, the bill (having been reported by the committee on Bills in the Third Reading to be correcting drawn) was read a third time; and it was passed to be engrossed, in concurrence.

The House Bill providing for the preservation and improvement of land, parks, and clean energy in the Commonwealth (House, No. 4561) was read a second time.

The amendment previously recommended by the committee on Bonding, Capital Expenditures and State Assets, - - that the bill be amended by substitution of a bill with the same title (House, No. 4847), - - was rejected.

The amendment previously recommended by the committee on Ways and Means, - - that the bill be amended by substitution of a bill with the same title (House, No. 4990), - - was adopted.

The substituted bill (House, No. 4990) then was ordered to a third reading.

The House Bill providing capital facility repairs and improvements for the Commonwealth (House, No. 4852) was read a second time.

The amendment previously recommended by the committee on Ways and Means, - - that the bill be amended by substitution of a bill with the same title (House, No. 4993), - - was adopted.

The substituted bill then was ordered to a third reading.

The Senate Bill providing for the annual observance of Massachusetts Nonprofit Awareness Day (Senate, No. 2679); and

House bills

Relative to the motion picture industry (House, No. 4784);

Authorizing the town of Natick to grant eight additional licenses for the sale of alcoholic beverages to be drunk on the premises (House, No. 4831);

To permit the appointment of Darryl Sencabaugh for the position of fire fighter in the town of Wilmington pending the civil service exam (House, No. 4841);

To authorize the removal of the deputy chief of police of the town of Acton from the civil service laws (House, No. 4870); and

Relative to the water commissioners of the town of Sherborn (House, No. 4941);

Severally were read a second time; and they were ordered to a third reading.

At twenty minutes before twelve o'clock noon, on motion of Mr. Hynes of Marshfield (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and



at thirteen minutes before two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Mr. O'Flaherty of Chelsea thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 149 members were recorded as being in attendance. No. 433.

**[See Yea and Nay No. 433 in Supplement.]**

Therefore a quorum was present.

The Senate Bill relative to vehicle license cost recovery fees (Senate, No. 2416, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Golden of Lowell moved to amend it in section 3, in line 10, by striking out the words "clear and conspicuous manner" and inserting in place thereof the words "manner that is readily noticed".

The amendment was adopted; and the bill (Senate, No. 2416, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments adopted by the House.

The House Bill relative to the rental of pets (House, No. 4893), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After debate the bill was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill relative to nursing mothers (House, No. 1568), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After remarks on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Linsky of Natick; and on the roll call 155 members voted in the affirmative and 0 in the negative. ye and nay No. 434.

**[See Yea and Nay No. 434 in Supplement.]**

Therefore the bill (House, No. 1568) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill providing for a certain exemption from the sales tax (House, No. 4995) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Jones of North Reading, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Binienda of Worcester moved to amend it by inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for a certain exemption from the sales tax, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted.

After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Binienda; and on the roll call 140 members voted in the affirmative and 15 in the negative.

**[See Yea and Nay No. 435 in Supplement.]**

Therefore the bill (House, No. 4995, amended) was passed to be engrossed. Sent to the Senate for concurrence.

**UNCORRECTED PROOF**

Emergency Measure.

The engrossed Bill relative to early education and care (see House, No. 4706, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 44 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mrs. Haddad of Somerset; and on the roll call 153 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 436 in Supplement.]**

[Mr. Torrisi of North Andover answered "Present" in response to his name.]

Therefore the bill (House, No. 4706, amended) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Recess.

At four minutes before four o'clock P.M., on motion of Mr. Scaccia of Boston (Mr. Petrolati of Ludlow being in the Chair), the House recessed until a quarter after four o'clock P.M.; and at five minutes before five o'clock the House was called to order with Mr. Donato of Medford in the Chair.

Orders of the Day.

The Senate Bill further protecting Buzzards Bay (Senate, No. 2374, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Turkington of Falmouth moved to amend it in section 14 (as printed), in subsection 9, paragraph (b), by striking out the second sentence, as follows: "The state pilot dispatched by the commissioner shall board the towing vessel from a Massachusetts based pilot boat."; and the amendment was adopted.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Quinn of Dartmouth; and on the roll call 153 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 437 in Supplement.]**

Therefore the bill (Senate, No. 2374, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments adopted by the House.



***UNCORRECTED PROOF***

Orders.

An Order (filed this day by Mr. Scaccia of Boston) relative to extending the reporting date for the roll call system security committee (House, No. 4997) was referred, under Rule 85, to the committee on Rules.

Mr. Scaccia, for said committee, reported that the foregoing order ought to be adopted.

Under suspension of the rules, on motion of the same member, the order was considered forthwith; and it was adopted.

On motion of Mr. DiMasi of Boston,--

*Ordered*, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at five minutes after five o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.